



October 19, 1999

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Dear Ted,

I received letter #88 yesterday. I am not certain about the specific explanation you requested, so I will comment on what I take to be the issues at present.

Quin Denvir is incorrect in his assessment of Miller and Korzenik, and it occurs to me that what he really finds to be cavalier was the publication of Mello's critical book. Miller and Korzenik have approached the project with a high degree of seriousness. There is no reason to suspect that they have not done a thorough job. My lawyers have not taken a cavalier approach to the issues associated with your appeal. Miller and Korzenik represent Context Books, and their responsibilities are limited to protecting me from a lawsuit. Therefore, their opinion was based on two factors: 1.) the low likelihood of an action given all of the preventative measures that were taken in the form of legal edits and 2.) their knowledge of the discovery process during copyright and libel litigation.

Denvir and Clarke seemed almost to take the position that you should not publish the book; everything in their opinion was risky.* Miller's opinion was based on two points: 1.) his responsibility per the contract was to make sure the document was not legally hazardous to Context Books, and all the possible problems had been addressed; 2.) the issues raised by the appeal did not come up until half way through the project, which means that he was saddled with the responsibility of making a judgment call on a point of law that could have negative consequences. In light of this, Miller proceeded to address these new and pressing issues, even though this was not part of his original mandate.

In addition, there were sections of text that still needed to be paraphrased. Since you had already sent summaries and paraphrases of letters, it seemed reasonable—given the pressures of distribution and publicity that I have already explained to you coupled with the fact that the legal edits were very close to complete—for Miller to execute the few remaining problems per style. As I wrote earlier, I would not have allowed this to happen had I not felt that we had reached a

* and in the same breath conceded that the appeal did not look promising.

My recollection was that QD thought it stood only a very slim chance. This is a contradiction.

stage in our professional relationship where you trusted my judgment and dedication to getting your book out in a manner that is consonant with your desires, goals and legal necessity.

In letter #70, August 13, you wrote: "I would hate to see you get screwed by a libel or copyright suit—or would you be protected from this by insurance? So, just in case your lawyers have been careless, when I go over the page proofs I will, if you like, make a note of any items that I think might cause legal problems for you." I was especially appreciative of your concern about my situation when I received it, and I have depended on that concern as we brought this book to a publishable form. A successful lawsuit would be very, very costly, and would perhaps threaten the existence of Context Books. My lawyers requested changes for all of the material constituting copyright infringement, specifically, that these sections be appropriately paraphrased or that a factual summary be written in lieu of that material, and this meant everything for which we were not granted permission to reprint. The rule you cited from Nimmer about the defense of one's reputation is important, but copyright issues are decided by four factors, and each of them is equally important. This means that the material you did not paraphrase or summarize still requires revision. Since you were not happy with the last round of legal changes executed by Miller, you will need to rewrite the legal edits you disapproved of, so that they are acceptable to you while remaining within the boundaries delineated by the Fair Use Doctrine. The specific boundaries are discussed in Miller's second memorandum regarding paraphrase and summary. It is also important that we do this in a timely fashion.

Since these new issues (those having direct impact on your appeal) are of obvious importance to you, I am more than willing to further address them. Having said this, these issues are not covered under our contract with regard to acceptance of a final and complete manuscript. Again, I am more than happy to address these issues, but they do not affect our mutual obligation to meet the terms of the contract and publish your book. Miller's opinion with regard to your exposure given the eventuality of an appeal and a civil suit has been made. His opinion is that you can be protected. But you feel that there is a conflict of interest here (he is not your lawyer), and it is understandable that you would like to seek another opinion with regard to this important matter. I think both your final changes in completion of the terms of the contract and this legal consultation should be possible to accomplish in a timely manner, they are not mutually exclusive, and they can be done at the same time.

Miller spoke to Denvir last Thursday, and he reported that you would like me to pay for outside legal counsel to help you sort out the various issues connected with your appeal as they are associated with the publication of *Truth versus Lies*. I am willing to do it.

Now for something that definitely should have no bearing on the publication of *Truth versus Lies*: At the risk of sounding emotional, I think it is time to give you another point of view. I am deeply disturbed by the misinformation accusation (which I have second-hand from _____ and third-hand from Derrick (who got it from Zerzan), that I want to be a spokesperson for the anti-tech movement, could not be more misguided. I am neither for nor against the anti-tech movement (although I privately do sympathize with some of its values), and

this *has* to be my position as a publisher. My job is simply to get the thing out to the reader, to act as a transmitter.

As for the other accusation, that I only want to make money off of you, this is patently absurd. I am definitely *losing* money on the project. Legal bills are 20,000 dollars, and counting. I'll be lucky to recoup cost given the facts, which are as follows: advance orders are 12,000 copies, the usual total for sales on advance orders runs between 50-60%, and the profit for each book is a little less than a dollar on the first printing. I do not get paid for media appearances. If anyone files an action, the deductible is \$10,000. This fee is re-applied to each new suit. I have not sold any of the licenses associated with the book (i.e., first serial, performance (film), electronic versions, foreign). As I have said in an earlier letter, the uncertainty with regard to money has caused me to take an indifferent stance (for the sake of my nerves).

I have not defended myself against _____ accusations because, for a long time, I assumed you knew what an ass she is. I formed this assumption after you questioned her judgment in a letter to me. This was evidently a false assumption. You may recall that I had problems with _____ from the first time I met her, after she asked me for money, food, and housing as a subvention for her trip to Wales to "meet with the people at Green Anarchist" (not apply for graduate school, as it later turned out). I now regret the handout. At any rate, _____ made a bad first impression. She fingered everything in the office upon arrival at midday, no perception whatsoever of boundaries and how intrusive she was being. Then, not fifteen minutes later, she smoked marijuana in the common lavatories (I smelled the smoke when I went to the bathroom right after her). Drugs do harm one's ability to read reality, since perception is unavoidably obtunded and distorted by their psychotropic effect. She told _____ that she "liked to smoke pot" and offered her some. _____ can't remember whether _____ qualified her statement with "a lot". (She declined the offer.) The qualification seemed self-evident, whether or not _____ said it. After _____ trip to the lavatory, she asked me where she could find a bar with "dirty old drunks." I pointed her in the "right" direction.

I could go on, but I don't want to. I should have stuck to the original impression I had of her. She is not especially intelligent or perceptive, and as evidenced by her interview with the *Boston Globe* and in her postings on alt.fan.unabomber, she is also a hypocrite. This says nothing about her lack of judgment, which already has been established. I agree with _____ her rant against me was a projection of her own desire. In the interviews between the press and me, I have always maintained a proper distance.

As for John Zerzan, I am impressed by his ability to figure me out after two telephone conversations and no correspondence—his stance is based on _____ stance. During the last phone call, Zerzan offered to help get press for the Grassroot Guides in a Eugene weekly. Maybe he's angry because I told Theresa that I did not agree with what I understand to be his tactics. Derrick told me that John is also lambasting me, after carefully considering _____ "information". I wrote Derrick in response (I cite it because a third party might get it garbled). The following is my private and personal opinion:

“[Zerzan’s engagement in] rabble-rousing among punk-rockers and other disaffected youth serves not much purpose other than his own egotistical satisfaction and the illusion of “progress” toward his anti-tech goals....Z is probably an emotional opportunist, using the anger of Eugene’s youth and his connection to Kaczynski to satisfy his own ego....nothing I have ever heard about Z suggests that he is actually dangerous to the existing social order. The authorities tolerate him. Therefore, what can we say about his “actions”? The mere flourishes of a 70s-style kung-fu fighter (pan left and you will see the camera crew winking and grinning over joe and smokes).”

I know this is harsh, but I don’t appreciate his blind attack, and it is only my private opinion. Based on the two conversations, I like Zerzan—but I do not like his apparent proclivity for senseless muckraking.

And there is still the book to be published. Miller has re-requested the ability to place legal calls to you. No word yet. The warden turned down my request and suggested that Miller make his own request. As ever, I am committed to publishing your book, regardless of the complexities. Since the very beginning, I have remained adamant about the historical importance of its publication. This has not changed.

My best,
Beau.